REMARKS

It is requested that examination proceeds on the basis of claim 1 amended as set out in the foregoing listing. Consequent upon the amendments to claim 1, claims 2 and 3 are to be cancelled in their entirety, and claims 1 and 4-36 remain pending in this application.

Acknowledgements

As the Examiner has correctly noted, claims 1-36 were pending for examination at the date of response to the first office action. In this connection, the incorrect status given for claims 28 and 32 in the response of May 27, 2009 is regretted, and the status has now been correctly identified.

In the final Office Action of August 10, 2009, claims 1-8, 16-29 and 32-36 were rejected under 35 USC §102(b) as being anticipated by Pearson et al US Patent No. 5,658,259. Claims 9-15 were rejected under 35 USC §103(a) as being unpatentable over Pearson et al '259 in view of Sudnak US Patent No. 4,894,055.

The conditional allowability of claims 30 and 31 is acknowledged upon rewriting these claims in independent form including all limitations of the base claim and any intervening claims. Applicant reserves the right to rewrite these claims at a later date.

Claims Rejections - 35 USC § 102

The rejections raised in the final office action of August 10, 2009 have carefully been considered and in particular the analysis of independent claim 1, rejected as being ***anticipated*** by Pearson, et al. (US5658259), is appreciated. From that analysis, it is understood that the text given in italics explains the reasoning why Pearson is still being regarded as anticipating claim 1.

It is believed that the invention of Liversidge set forth in the present application is clearly distinguished from that of Pearson and the difficulty here is one of adequately expressing the structure of Liversidge, in such a way that it is clear that structure can be distinguished from the structure disclosed in

Pearson. Amended claim 1 presented with this response is believed to do that, so as to distinguish the subject matter of the present application over the prior art.

In the following, a discussion will be given of the distinguishing features of the structure of Liversidge, making particular reference to the text in italics in the final office action.

1. The Initial and Protecting Positions

The Examiner has noted that with Pearson, the sleeve when in its initial and protecting positions is in the same relative corresponding position with respect to the needle and support. Though at first glance this may appear to be the case, the attention of the Examiner is drawn to Figures 2 and 4 of the drawings of Pearson. Sleeve 40 of Pearson (referred to in Pearson as a "needle cover" - see column 4, line 59) corresponds to the sleeve 16 of Liversidge. As can be seen, in the final protecting position of Pearson (Figure 4), the end of the sleeve 40 is significantly further forward from the tip of the needle 34 than is the case in Figure 2. Thus, relative to the needle, and so the support for the needle, with Pearson the initial and final protecting positions are not the same.

Further, with respect to the overall injector typified for example by the forward housing member 15, the Pearson sleeve 40 clearly is not in the same initial and final protecting positions. In Figure 2, ridge 108 of sleeve 40 is engaged with flange 98 of the forward housing member 15; in Figure 4, ridge 108 is spaced very significantly forwardly of that housing member 15.

Figures 2 and 4 of Pearson also show a needle sheath 44 which is of course in the same relative position with respect to the needle, in the initial and final positions. That sheath 44 cannot be equated to the sleeve 16 (for example) as defined in claim 1 of Liversidge. The needle is projected through the end of that sheath at the start of an injection procedure and at the end of the procedure that sheath returns to its initial position, but there is nothing at all present to lock that sheath in the final position.

As the Examiner has correctly noted in the analysis of Liversidge claim 1, sleeve 40 of Pearson corresponds to the sleeve 16 of Liversidge. There is a blocking member (for example 23) to lock-out that sleeve of Liversidge when it is in its protecting position; and there is a tab member 114 to lock-out the sleeve 40 of Pearson.

The definition of the sleeve in Liversidge has been amended to reflect the above and it is submitted that this amendment adequately addresses the first passage set out in italic text on page 3 of the final office action.

2. The Blocking Member

The Examiner has indicated that the tab member 114 of Pearson is equivalent to the blocking member of Liversidge. That tab member is resilient and is biased against the exterior surface 116 of the sleeve and in use of the injector of Pearson, the relative position between the blocking member and the sleeve changes such that it is disposed at different acute angles with respect to the sleeve, when the sleeve is in its initial and protecting positions.

With Liversidge, the blocking member is an essentially rigid tubular component within which or over which (depending upon the embodiment) the sleeve slides. Initially, the blocking member is coaxial with the sleeve such that relative sliding movement may take place; when the sleeve reaches its final protecting position, the blocking member lies non-coaxially with the sleeve and acts between the needle support and a part of the sleeve so as to block movement of the sleeve away from its protecting position. Claim 1 has been amended so as better to express both the structure of the blocking member and also to describe its operation.

It is important here to note that though Pearson does not provide a convenient perspective or isometric view, the tab member 114 is in effect a springy finger projecting forwardly from a spring element 110 located within the forward housing member 15. The tab member 114 is described in Pearson at column 6, line 31 onwards, which states "The spring tab member 114 is

elongated, flexible, and integrally connected at its rearward end with the spring element 110 generally at a longitudinal midpoint of the spring element. The tab member 114 extends forwardly and inwardly from its rearward end toward its forward end and has its forward end disposed in resilient, spring biased engagement with an exterior cylindrical surface 116 of the needle cover 40". Such a springy finger (tab member 114) cannot satisfy the limitations now inserted in claim 1 of Liversidge concerning the blocking member.

The definition of the blocking member in Liversidge, and its operation, has been amended to reflect the above and it is submitted that this amendment adequately addresses the second passage set out in italic text, bridging pages 3 and 4 of the final office action.

3. The Control Means

The definition in claim 1 of the control means in the present application has been amended so as clearly to comply with the requirements of 35 USC § 112, 6th paragraph. As such, it is believed that there is an adequate structural definition of the control means in claim 1, so as to address the first sentence of the text in italics commencing at line 4, on page 4 of the final office action.

It is agreed that the tab member 114 of Pearson co-acts with the external surface 116 of the sleeve 40, and to that extent it is understood that the Examiner believes that external surface serves as the control means of Pearson, equivalent to the control means of Liversidge.

In the amended claim 1 now presented for further examination, it is clear that the control means serves to maintain the blocking member coaxial with the sleeve during movement of the sleeve from its initial position to its protecting position but during that movement is released; and subsequently on movement of the sleeve to its protecting position, the blocking member moves to its blocking position to maintain the sleeve in its protecting position.

With Pearson, the blocking member never extends coaxially with the sleeve - firstly, the tab member is not tubular, but rather is in the form of a

springy finger projecting forwardly and bearing on the outer surface of the sleeve 40; and secondly, the tab member is not in any way "released" to move to its blocking position during movement of the sleeve to its withdrawn position. All that happens in Pearson is that the free end of the tab member springs over annular flange 118 of the sleeve 40 in the last stage of movement of the sleeve.

In the second part of the text in italics on page 4 of the final office action, commencing at line 6, the Examiner has indicated that the external surface 116 of the Pearson sleeve 40 acts as a control means, but the simple annular flange 118 neither meets the structural definition of the control means in amended claim 1, nor does it have the same functionality.

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Based on the above, it is believed that the express points raised in the final office action concerning claim 1 of Liversidge have fully been addressed and that claim 1 now structurally defines the invention of Liversidge in terms which clearly distinguish claim 1 from Pearson. Further, since all of the dependent claims 4 to 36 are dependent on claim 1, either directly or indirectly, it is believed that those claims are also allowable.

Claims Rejections - 35 USC § 103

It is noted that claims 9 to 15 have been rejected under 35 USC § 103(a) as being unpatentable over Pearson in view of Sudnak (US4894055). The basis of this rejection is that the Examiner alleges Pearson "discloses the invention substantially as claimed except for expressly disclosing the support attaching to a hypodermic syringe".

For the reasons explained above, and bearing in mind the amendments now offered to claim 1, it cannot be agreed that Pearson anticipates Liversidge claim 1. The invention of Liversidge as defined by revised claim 1 is clearly distinguished from Pearson and so the rejection based on Pearson in view of Sudnak cannot be sustained. Sudnak fails to rectify the deficiencies of Pearson.

Based on the above arguments, the Examiner is respectfully requested to withdraw the rejections, and pass this application to issuance with claims 1 and 4-36 being deemed allowable.

The Examiner is invited to contact the undersigned in the interest of expediting prosecution.

Respectfully submitted,

ANDRUS, SCEALES, STARKE & SAWALL, LLP

William L. Falk
Reg. No. 27,709

100 East Wisconsin Avenue, Suite 1100
Milwaukee, Wisconsin 53202
Telephone No. (414) 271-7590
Attorney Docket No.: 1926-00102